

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

Plaintiff,

04 Cr. 0702 (RPP)

- against -

OPINION AND ORDER

DAVID LEON DEMBO,

Defendant.

-----X

ROBERT P. PATTERSON, JR., U.S.D.J.

On July 2, 2009, a Petition for Modification of Restitution Order and Petition by Affidavit in Commerce for Cancellation of Debt were filed in this Court by Defendant David Dembo and an Addendum thereto on July 10, 2009. The United States Attorney's office responded by letter dated August 26, 2009.

On July 26, 2004, Defendant pled guilty to conspiracy to commit armed bank robbery, armed bank robbery, use of a firearm in relation to a crime of violence (i.e. bank robbery) and possession of cocaine and crack. On September 9, 2005, this Court sentenced the defendant to seven years in prison, five years supervised release, restitution in the amount of \$15, 601.00 and a special assessment of \$700.00. The Court ordered that the Defendant make payments towards these financial obligations while incarcerated through Bureau of Prisons work programs and, after release from custody, by monthly payments of ten percent of gross income.

As of August 26, 2009, the Defendant had made twelve payments towards the \$700.00 special assessment totaling \$300.00, leaving a balance of \$400.00. The

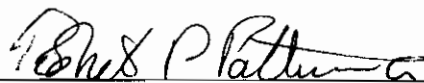
restitution amount of \$15,601.00 had accumulated interest of \$2,201.00 and now totals \$17,527.80, 18 U.S.C. § 3612(b).

The Defendant's petitions request that the Court order the interest requirement be waived and that all interest and penalties be removed. Defendant's Petition at ¶ 2, 3.

A request for correction or reduction of sentence must be made within one hundred and twenty days of sentence, Rule 35 of the Federal Rules of Criminal Procedure. That period ended in early 2006. Accordingly, the Court does not have power to grant the petitions and they are denied without prejudice to the Defendant's seeking similar relief from the Attorney General pursuant to 18 U.S.C. §§ 3612(h) and 3664(m)(1)(A)(1).

IT IS SO ORDERED.

Dated: New York, New York
September 1, 2009



Robert P. Patterson, Jr.
U.S.D.J.

Copies of this Order sent to:

Pro se Plaintiff:

David Dembo (by mail)
32916-054
P.O. Box 9002
Ray Brook, NY 12977

Counsel for the Government:

PREET BHARARA
United States Attorney
Southern District of New York
One Saint Andrew's Plaza
New York, NY 10007
Attn: Kathleen A. Zebrowski
Assistant United States Attorney
Tel: (212) 637-2710
Fax: (212) 637-2717